

### **C. ACCESSORY DWELLING UNITS**

Principal Permitted Uses and Structures						
Uses	Zoning Districts					
	SRAA &SR	RA	R	SM R	G	D
E. One accessory dwelling unit per lot; <del>provided the minimum lot area required in the</del>	<u>N</u>	<u>SPY</u>	<u>SP</u> <u>Y</u>	<u>SPY</u>	<u>SP</u> <u>Y</u>	Y

1. **Intent:** Accessory dwelling units (“ADUs”) are an allowed accessory use, which meet the requirements of this section. This section applies to newly constructed accessory dwelling units. Accessory dwelling units are intended to advance the following:
  - a. Diversify housing choices in the Town, while respecting the residential character and scale of existing neighborhoods;
  - b. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
  - c. Create more housing units with minimal adverse effects on Rockport’s neighborhoods; and buildings

#### **3. Rules for All Accessory Dwelling Units**

- a. No accessory dwelling unit shall be held in separate ownership from the principal structure/ dwelling unit;
- b. No more than 1 accessory dwelling unit shall be allowed per lot;
- c. The property owner must have as their principal residence either the principal dwelling unit or the accessory dwelling unit. In cases where ownership of the property is held in a trust, corporation, partnership, or similar financial arrangement, the occupant must have an ownership

interest in the financial arrangement;

- d. Before a Certificate of Occupancy is issued the property owner of any accessory dwelling unit shall register such property with the Building Inspector and provide written certification attesting that the accessory dwelling unit shall not be used for short-term rentals, as defined in Section II.
- e. Where an ADU is constructed, the minimum lease, whether the ~~leasee~~lessee occupies the ADU or the principal dwelling unit, shall be six contiguous months.
- f. In addition to the minimum of one parking space required for single and two-family dwellings, one parking space shall be provided for an accessory dwelling unit. This parking space may be tandem with an existing space.
- g. Short-term rentals, as defined in Section II are prohibited in the accessory dwelling unit and may not be advertised or promoted on any internet platforms typically associated with short-term rentals.
- h. To ensure continued compliance with the requirements of this section by the current as well as by any subsequent owners, prior to using or obtaining a Certificate of Occupancy for any ADU, a Notice in the form provided by the Inspector of Buildings shall be recorded at the Essex South District Registry of Deeds. The Notice must contain the Lot address, Assessor's Map and Lot number, that an ADU has been allowed on the Lot and that the continued use of the ADU requires compliance with this By-law including, without limitation that no ADU may be used for short-term rental.

#### **4. Rules for Internal Accessory Dwelling Units**

- a. An Internal Accessory Dwelling Unit shall be a minimum of 250 square feet and a maximum of 900 square feet or 33 percent of the total gross floor area in the principal dwelling, whichever is less. In cases of two-family homes with dwelling units of different sizes, the percentage of total gross floor area shall be based on the smaller of the two principal dwelling units.
- b. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:
  - i. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;
  - ii. The roof pitch should be consistent with the predominant roof pitch of

the remainder of the building;

- iii. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;
- iv. Windows should be consistent with those of the remainder of the building in proportion and orientation; and
- v. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building.

## **5. Rules for Detached Accessory Dwelling Units**

- a. A Detached Accessory Dwelling Unit shall be a minimum of 250 square feet and a maximum of 900 square feet or 40% of the total gross floor area of the principal dwelling, whichever is less. In cases of two-family homes with dwelling units of different sizes, the percentage of total gross floor area shall be based on the smaller of the two principal dwelling units.
- b. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:
  - i. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;
  - ii. The roof pitch should be consistent with the predominant roof pitch of the remainder of the building;
  - iii. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;
  - iv. Windows should be consistent with those of the remainder of the building in proportion and orientation; and
  - v. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building.
- c. The Detached Accessory Dwelling Unit must be at least 10 feet from the principal dwelling unit on the site.
- a-d. The Detached Accessory Dwelling Unit must meet the setback requirements of the principal dwelling unit, as well as other applicable dimensional controls, except by Special Permit from the Planning Board.

## **6. Termination**

- a. The accessory dwelling unit use shall terminate immediately upon any violation of any term or condition of this By-law that the owner fails to

cure, upon thirty (30) days written notice mailed to the ~~applicant~~owner and to the occupants at the dwelling address by certified mail, return receipt requested.

b. Duty of Owner Upon Termination include:

- i. The owner shall discontinue the use of the accessory dwelling unit as a separate dwelling unit.
- ii. The kitchen facilities of the accessory dwelling unit shall be removed unless determined by the Building Inspector to be incidental and subordinate as an accessory use of the principal dwelling.
- iii. Any additional exterior entrance constructed to provide access to the accessory dwelling unit shall be permanently closed, unless the Any additional exterior entrance constructed to provide access to the accessory dwelling unit shall be permanently closed, unless the Building Inspector provides a waiver. ~~The owner shall permit an inspection by the Building Inspector without a warrant.~~

**~~XXII.XI~~ OPEN SPACE RESIDENTIAL DEVELOPMENT**

**A. PURPOSE AND INTENT**

1. The primary purposes of this By-law are to:
  - a. Preserve open space, forests, and wildlife habitat;
  - b. Reduce energy consumption and greenhouse gas emissions, and mitigate of the effects of climate change;
  - c. Preserve agricultural land use;
  - d. Establish Open Space Subdivision design as a preferred alternative to conventional subdivisions, in order to consume less open land and preserve environmental resilience while providing for present and future housing needs;
  - e. Enable landowners to realize equity from development of a limited percentage of their land while preserving conservation, agricultural, forestry or recreational uses on the majority of the property;
  - f. Expedite the permitting of projects that fulfill the objectives and requirements of this By-law;
  - g. Facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner while minimizing the total area of disturbance of the site; and
  - h. Promote the incorporation of Low Impact Development and Green Infrastructure features into development designs.

## **B. APPLICABILITY**

2. Open Space Subdivisions are allowed by right under zoning and may be proposed in all Residential districts. Conventional Subdivision designs, as defined in Section II, may be approved by Special Permit by the Planning Board if the applicant demonstrates that the proposed alternative development configuration provides protection of the site's environmental resources and fulfills the purposes of this Article as well or better than an Open Space Subdivision.
3. If the proposed Open Space Subdivision involves a Special Permit(s) for one or more common driveways, or any other use that requires a Special Permit, the proceedings for all such Special Permits and the site plan review for lot configuration shall occur in one consolidated Special Permit proceeding before the Planning Board.

## **C. YIELD: ALLOWABLE DWELLING UNITS**

1. Number of Dwelling Units allowed. The base maximum number of residential units allowed in an Open Space Residential Subdivision is calculated by a formula based upon the net developable acreage of the parcel. This formula takes into account site-specific development restrictions and limitations that make some land unsuitable for development, or less suitable for development than other land. This calculation involves two steps, calculating the net acreage and dividing by the minimum conventional lot acreage in the zoning district. To determine net acreage, subtract the following from the total (gross) acreage of the parcel:
  - a. Half of the acreage of land with slopes of 20% or greater;
  - b. The total acreage of land subject to easements or restrictions prohibiting development, lakes, ponds, vernal pools, 100-year floodplains as most recently delineated by FEMA, Zone I and A around public or private water supplies, and all wetlands as defined in G.L. Chapter 131, Section 40 of the General Laws and any state or local regulations adopted thereunder; and
  - c. Ten percent of the remaining site acreage after the areas described in C.1.a and C.1.b are removed, to account for subdivision roads and infrastructure.

The factors named above are included for net acreage calculation purposes only and do not convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this Zoning By-law.

The maximum number of allowable dwelling units in an open space subdivision on the parcel is determined by dividing the net acreage by the required acreage for a lot in the zoning district. Fractional units shall be rounded down to the nearest whole number. The required acreage for each

district is one acre.

**D. GENERAL REQUIREMENTS**

1. **Open Space Subdivision layout.** The developed areas and protected open space shall be placed within the parcel in a manner that best fits the characteristics of the land and the purposes of this By-law, in particular the protection of clean groundwater resources and environmental resiliency. Site plan layout should preserve or incorporate historic buildings or sites to the extent practicable, as identified in the Massachusetts Cultural Resource Information System (MACRIS).
2. **Housing Types.** Subdivision residential dwelling units shall be single-family structures. Duplexes may be allowed by Special Permit, if designed to resemble single-family homes. Duplexes will be considered as two residential dwelling units. Single-family structures or duplexes will be located on individual lots. Multiple unit arrangements on a shared lot, or a combination of individual lots and shared multiple unit lots, may be allowed by Special Permit in cases where such arrangements best serve the conservation purposes of this By-law on the specific parcel.

## **E. DIMENSIONAL REQUIREMENTS**

Lot size and shape, residential unit placement, and other dimensional requirements within an Open Space Subdivision are flexible, subject to the following guidelines and limitations.

1. **Objectives.** Residential units shall be located and arranged in a way that advances the open space and resource conservation objectives of this By-law, i.e., to protect: views from roads and other publicly accessible points; farmland; wildlife habitat; large intact forest areas; hilltops and steep slopes; ponds, wetlands and groundwater resources; and other sensitive environmental resources.
2. **Monumentation.** Monumentation of a type consistent with the use of the open space, and approved by the Planning Board, shall clearly delineate the boundaries of the protected open space in a manner that facilitates monitoring and enforcement.
3. **Area.** There is no required minimum lot size for zoning purposes. The limiting factors on lot size and placement for each single-family structure or specially permitted duplex in an Open Space Subdivision are the need for 1) adequate water supply and sewage disposal for each residential unit, 2) protection of the quality and quantity of current and future groundwater resources on abutting properties, 3) prevention of negative impacts on wetlands on or near the subdivision, and compliance with the other provisions of this By-law.
4. **Infrastructure.** Water, wastewater infrastructure and storm water management for an OSRD shall be subject to the By-laws and rules and regulations of the Planning Board, the Board of Health, the Department of Public Works, and the Conservation Commission. To minimize environmental impacts, where practicable, residential units shall have shared or clustered septic systems.
5. **Frontage.** On existing public roads, frontage of any Open Space Subdivision lot shall be as required for a conventional lot in the relevant zoning district. On internal Open Space Subdivision roads, there is no numerical requirement for lot frontage. Each lot must have legal and functional vehicular access to an existing public road or an internal Open Space Subdivision road approved under the Subdivision Rules and Regulations, either directly across its own frontage or via a common driveway approved by Special Permit.
6. **Setbacks.** The minimum setback of any building from an existing public road shall be 100 feet. The minimum setback of any building from an internal Open Space Subdivision road shall be 30 feet. The minimum setback of any building from the property line of an abutting property not part of the Open Space Subdivision shall be 60 feet. The minimum distance between residential

buildings within the Open Space Subdivision shall be 30 feet. The minimum distance between an Open Space Subdivision residential building and an abutter's residential building shall be 100 feet.

## **F. OPEN SPACE REQUIREMENTS**

1. **Minimum area.** A minimum of 60% of the land area of the Open Space Subdivision shall be set aside as permanently conserved open space. At least half of the open space shall be "Uplands" as defined in Section II. No more than 10% of the required open space may be utilized for common water supply wells and associated infrastructure, subsurface leaching fields and other underground components of wastewater systems, rain gardens, constructed wetlands, and other decentralized stormwater management systems consistent with Low Impact Development, that serve the Open Space Subdivision, provided that the land so utilized is contiguous with undisturbed area(s) of protected open space. Treated stormwater may be discharged into the protected open space as part of an approved Low Impact stormwater management plan. All protected land must be shown on approved plans.
2. **Contiguity of Open Space.** Preserved open space shall be contiguous to the greatest extent practicable. Noncontiguous areas of open space may be allowed if they are shown to provide better protection of areas of high conservation value or to provide continuity with open space on adjacent lands. In such cases, applicants shall attempt to connect these resource areas to the greatest extent practicable through the use of vegetated corridors. Open Space will still be considered contiguous if it is crossed by a shared driveway, roadway, or an accessory amenity such as a paved pathway or trail, as long as a functional wildlife corridor is maintained. If the open space is maintained for agricultural uses, open space areas will be considered contiguous if separated by a barn or storage shed.
3. **Permanent Conservation of the Required Open Space.** Any land required to be set aside as open space, voluntarily preserved in excess of that required, or conserved as a condition of site plan approval, shall be permanently protected pursuant to Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts or a perpetual restriction under MGL 184 s.31-33. Unless conveyed to the Conservation Commission, the required open space shall be subject to a permanent Conservation, Watershed, or Agricultural Preservation Restriction conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources in accordance with G under MGL 184 s.31-33, approved by the Planning Board and Select Board and held by the Town of Rockport, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under MGL 184 s.31-33. Any proposed open space that does not qualify for inclusion in a Conservation Restriction, Watershed, or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a



Restrictive Covenant in perpetuity under MGL c.184, s.26-30 which shall be approved by the Planning Board and Select Board and held by or for the benefit of the Town of Rockport.

The restriction shall specify the prohibited and permitted uses of the restricted land, which would otherwise constitute impermissible development or use of the open space, consistent with the Allowable and Prohibited Uses subsections of this By-law and any permits. The restriction may permit, but the Planning Board may not require, public access or access by residents of the development to the protected land.

4. **Timing.** Any restriction or other legal document necessary to permanently conserve open space as required herein shall be recorded prior to the release of any lots in a subdivision or prior to the issuance of any building permits.
5. **Allowable Use of the Open Space.** Such land shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein and in the deed and/or in the restriction, and maintained in a manner which will ensure its suitability for its intended purposes. Proposed use(s) of the open space consistent with this section shall be specified in the application.
  - a. The open space shall be used for wildlife habitat and conservation and/or the following additional purposes or a combination of these uses, and shall be served by suitable access for such purposes: historic preservation, outdoor education, community gardens, and passive recreation. Use of the open space for agriculture, horticulture or forestry shall be allowed if the land was in such use at the time of approval of the Definitive Plan. A portion of the open space may be used for new agricultural activities.
  - b. The Planning Board may permit a small portion of the open space, not to exceed five percent, to be paved or built upon (using permeable pavement and other means of retaining natural hydrology) for purposes accessory to the dedicated use or uses of such open space, so long as the conservation values of the open space are not compromised. Examples of such purposes are parking to facilitate public access for passive recreation, informational kiosks, pedestrian walks, ADA access features, and bike paths. Construction of barns or other farm structures will be allowed on five percent of the protected open space that is in agricultural or horticultural use as defined by MGL c.128, s.1A.
  - c. The open space may be used as the land subject to a restriction for the purpose of an aggregate calculation under Title 5, 310 CMR 15.000 of the State Environmental Code, MGL c.21A.
6. **Prohibited Use of the Open Space.** The open space within an Open Space Subdivision shall be perpetually kept in an open state, preserved exclusively for the purposes set forth in Section F.1.5 of this By-law, and maintained in a manner that will ensure its suitability for its intended purposes. Expressly

prohibited uses, if not specifically permitted as an allowable use, include but are not limited to the following:

- a. Constructing or placing of any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above, or under the open space that is not in conformance with an authorized use of the open space (e.g., fencing, barn or other structure associated with agriculture);
- b. Mining, excavating, dredging, or removing soil, loam, peat, rock, gravel or other mineral resource or natural deposit, unless necessary to install infrastructure that is part of the approved plan;
- c. Placing, filling, storing, or dumping of soil, refuse, trash, vehicles or parts thereof, rubbish, debris, junk, waste, or other substance or material whatsoever or the installation of underground storage tanks;
- d. Cutting, removing, or destroying of trees, grasses or other vegetation unless in conformance with an allowed use such as agriculture, forestry, recreation, maintenance of healthy natural ecosystems and suppression of invasive species, or installation of infrastructure that is part of the approved plan;
- e. Subdivision; neither further division of the protected open space into lots or the use of the protected open space toward any further building requirements on this or any other lot is permitted;
- f. Activities detrimental to drainage, flood control, water conservation, water quality, erosion, soil conservation, or archeological conservation;
- g. Purposefully introducing or allowing the introduction of species of plants and animals recognized by the Executive Office of Energy and Environmental Affairs to pose a substantial risk of being invasive or otherwise detrimental to the native plant and animal species and plant communities on the property;
- h. The use, parking or storage of motorized vehicles, including all-terrain vehicles (ATVs), snowmobiles, motorcycles, and campers, except in conformance with an authorized use of the open space, ADA accessibility, or as required by the police, firefighters, or other governmental agents in carrying out their duties; and
- i. Any other use or activity which would materially impair conservation interests unless necessary in an emergency for the protection of those interests.

## **G. OWNERSHIP OF THE OPEN SPACE**

1. At the applicant's discretion and the grantee's acceptance, the open space may be owned in fee by:

- a. A private owner for agricultural, horticultural, forestry or any other purpose not inconsistent with the conservation or agricultural restriction;
- b. A non-profit organization or agency of the Commonwealth, with their consent, whose principal purpose is the conservation of open space for any of the purposes set forth herein;
- c. The Town of Rockport, with the consent of the Board of Selectmen, under management of the Town Forest or Conservation Commission, with their consent; or
- d. A homeowners association (HOA) as defined herein, owned jointly or in common by the owners of lots or units within the Open Space Subdivision.

2. If ownership option G.1.d is selected the following shall apply:

- a. The documents organizing the HOA shall be drafted by the applicant and approved by the Planning Board before final approval of the Open Space Subdivision development, recorded prior to the issuance of building permits, comply with all applicable provisions of state law, and pass with conveyance of the lots or units in perpetuity. Each individual deed, and the deed, trust, or articles of incorporation, shall include language designed to affect these provisions.
- b. Membership must be mandatory for each property owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
- c. The HOA must be responsible in perpetuity for liability insurance, property taxes, the maintenance of recreational and other facilities, preservation of the open space in accordance with this By-law, private roads, and any common driveways.
- d. Property owners must pay their pro rata share of the costs in subsection c above, and the assessment levied by the HOA must be able to become a lien upon individual properties within the Open Space Subdivision.
- e. The HOA must be able to adjust the assessment to meet changed needs.
- f. The applicant shall make a conditional grant to the Town of Rockport, Rockport Conservation Commission, binding upon the HOA, of the fee interest to all open space to be conveyed to the HOA. Such offer may be accepted by the Conservation Commission, at the discretion of the Select Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the HOA at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes on the open space.
- g. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by

proceeding against individual property owners in the HOA and the dwelling units they each own.

- h. Rockport Town Counsel must find that the HOA documents presented satisfy the conditions in Subsections a through g above, and such other conditions as the Planning Board shall deem necessary.

3. Selection of ownership option G.1.a, G.1.b or G.1.d requires:

- a. The conveyance of a conservation restriction as outlined herein; and
- b. The granting of an access easement over such land sufficient to ensure access for Rockport Town officials to ensure its perpetual integrity and maintenance as agricultural, conservation, or recreation land.  
Such easement shall provide that in the event the owner fails to maintain the open space in reasonable condition, town officials may, after notice to the lot owners and any grantee of a restriction, and after Board of Selectmen public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance.

## **H. MAINTENANCE**

- 1. **Maintenance standards.** The Planning Board shall require the establishment of ongoing maintenance standards as a condition of development approval to ensure that utilities are properly maintained and the open space land is not encroached upon, or used for storage or dumping of refuse, junk, or other offensive or hazardous materials. Such standards shall be enforceable by the Town against any owner of open space land, including an HOA.
- 2. **Enforcement of maintenance standards.** If the Board of Selectmen finds that the maintenance provisions are being violated to the extent that the condition of the utilities or the open land constitutes a public nuisance, it may, upon 30 days written notice to the owner/grantee, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed proportionally against the landowner or, in the case of an HOA, the owners of properties within the subdivision, and shall, if unpaid, become a property tax lien on such property or properties.

Pursuant to MGL c.40, s.58, Rockport may file a lien against the subdivision lot or lots to ensure payment for such maintenance. Pursuant to MGL c.40, s.57, Rockport may also deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.

## **I. CONSULTANTS**

In its discretion, the Planning Board may determine that the Planning Board requires the advice of outside consultants in connection with the Board's review of a proposed OSRD. Upon such determination, the Planning Board shall inform the Applicant of the funds that the

Applicant shall be required to deposit in an escrow account with the Town to cover the Board's anticipated professional fees. To continue the review process, the Applicant shall deposit with the Town the funds requested by the Planning Board for its consultant review. If the escrow becomes insufficient to reimburse the Planning Board for its consultant fees, the Applicant may be required by the Planning Board to deposit additional funds with the Town. All escrowed fees shall be deposited prior to the Planning Board's issuance of an approval under this Section. Surplus funds deposited by the Applicant shall be refunded to the Applicant within 30 days of a final determination on the application. An applicant shall have a right of appeal to the Board of Selectmen from the Planning Board's selection of an outside consultant under this section as described in MGL c.44, s.53G.

## **J. SUBMISSION REQUIREMENTS**

In order to enable the Planning Board to determine whether or not a proposed Open Space Subdivision design (or alternative subdivision development requiring a Special Permit that deviates from the requirements for Open Space Design) satisfies the purposes and standards of this Open Space Subdivision section of the Zoning By-law and the Subdivision Rules and Regulations of the Planning Board, an applicant must present sufficient information on the environmental and open space resources for the Board to make such a determination.

## **XII. TRANSIT-ORIENTED VILLAGE OVERLAY DISTRICT**

### **A. PURPOSE AND INTENT**

1. The primary purposes for Transit-Oriented Village Overlay District (TOVOD) are the following:
  - a. To coordinate development and redevelopment according to plans collaboratively developed with community members from the Town of Rockport;
  - b. To facilitate the development of a traditional, walkable village around the Rockport commuter rail station area, to promote neighborly activity, respect the Town's existing built form, and honor historic development patterns inherent in New England villages;
  - c. To provide a range of housing types, unit sizes, and price points to accommodate diverse household sizes, income levels, and stages of life;
  - d. To enhance pedestrian connectivity both within the TOVOD and to surrounding districts;
  - e. To preserve and enhance the availability and design of the Town's public realm and civic spaces;
  - f. To allow for a range of business activity that supports the local interests in providing for everyday needs of the Town's year-round residents; and
  - g. To create vehicular parking requirements consistent with best practices for suburban station areas.

## **B. APPLICABILITY**

1. The TOVOD District is an overlay district superimposed over the underlying zoning districts or portions thereof as shown on the Zoning Map [WR2] set forth in the Rockport Zoning By-law. Within the TOVOD, the requirements of the underlying districts continue to apply as an alternative to the requirements of the TOVOD. The TOVOD will not restrict the rights of any owner who elects to utilize the existing underlying zoning regulations to develop or redevelop land. If an owner elects to utilize the TOVOD to develop or redevelop land, the project shall conform to all applicable requirements of this Section XII.
2. Diagrams are included in this Section XII. to help illustrate the purpose and requirements of the text. In the case of a conflict between the text of this Section and any diagram, the text shall govern.

## **C. PERMITTED USES**

1. The following list of uses are permitted with the TOVOD, either as-of-right (labelled “Y”) or by grant of a Special Permit (labelled “SP”). Any uses not in the list below are prohibited under the TOVOD.
2. The Planning Board will act as the Special Permit granting authority for

all applications under the TOVOD requiring such.

3. Mixed-use buildings, as defined in Section II are permitted, provided the uses are allowed as set forth in Section XII.C.4 and building standards are met as set forth in Section XII.F.
4. Permitted uses may be housed in structures complying with Building Standards as set forth in Section XII.F. Certain Building Types as set forth in Section XII.F.5.A require a Special Permit regardless of whether the use is permitted as-of-right.

<u>Use</u>	<u>Permitted</u>
<u>Residential Uses</u>	
<u>Mixed-Use building</u>	<u>Y</u>
<u>Multi-Family building</u>	<u>Y</u>
<u>Town houses</u>	<u>Y</u>
<u>Accessory Dwelling Unit, maximum of one unit per lot</u>	<u>Y</u>
<u>Retail Business and Consumer Service Uses</u>	
<u>Food service establishments that sell over a counter, such as bakeries, coffee shops, and ice cream shops</u>	<u>Y</u>
<u>Restaurants and other eating establishments serving food to persons seated at tables or counters</u>	<u>Y</u>
<u>Stores, salesrooms, or showrooms for the conduct of retail business, such as clothing, craft shops and other consumer goods of not more than 2,500 square feet</u>	<u>Y</u>
<u>Personal services, such as a barber, hairdresser, dry cleaning, and other establishments</u>	<u>Y</u>
<u>Movie theaters, theaters, and entertainment centers, such as bowling alleys or billiards</u>	<u>SP</u>
<u>Office, including doctor, dentist, accountant, other member of a recognized profession</u>	<u>Y</u>
<u>Grocery Store</u>	<u>Y</u>
<u>Child care facility</u>	<u>Y</u>
<u>Art studio, provided it does not cause noise, undue commotion, or traffic detrimental to the neighborhood</u>	<u>Y</u>

<u>Use</u>	<u>Permitted</u>
<u>Galleries or studios for the instruction, practice, and recital of musical instruments, voice, drama, and dance, provided that such work is not detrimental to the neighborhood due to noise or vibrations</u>	<u>SP</u>
<u>Commercial and Industrial Uses</u>	
<u>Professional offices, including financial institutions, architecture firms, and other places of employment provided in an office environment</u>	<u>Y</u>
<u>Light industrial operations, including processing, fabricating, and assembly plants and manufacturing operations, provided they do not cause noise, odors, undue commotion, or traffic detrimental to the neighborhood</u>	<u>SP</u>
<u>Structured parking facility</u>	<u>SP</u>
<u>Institutional Uses</u>	
<u>Churches and buildings used for religious purposes</u>	<u>Y</u>
<u>Private clubhouse, meeting halls, and lodge rooms to be used by fraternal or other organizations</u>	<u>SP</u>

#### **D. ADMINISTRATION**

1. **Site Plan Review.** All applications under the TOVOD require Site Plan Review. See Section XIII for applicable procedures.
2. **Supplemental Materials.** The Planning Board may adopt rules and regulations to advance the purposes and to assist with the implementation of this bylaw.
3. An analysis must demonstrate that the proposed project will result in an improvement of storm-water run-off from the existing conditions.

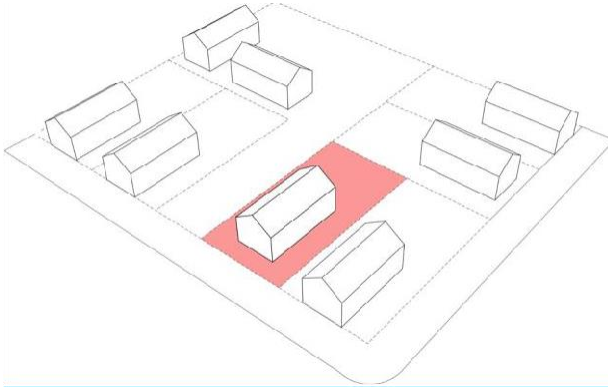
#### **E. LOTS**

1. All newly created lots must have a lot line or theoretical lot line abutting a thoroughfare, civic space, right-of-way, or easement. Driveways do not count as thoroughfare types and cannot be used to satisfy this provision.
2. The construction of multiple buildings on a lot is permitted, provided other standards, including parking standards, are met.
3. The Planning Board may, as part of the Site Plan Review process, allow reductions in the minimum setbacks in order to promote better site design for site conditions particular to a given lot.



#### 4. Lot Types

##### a. Standard / Interior Lot



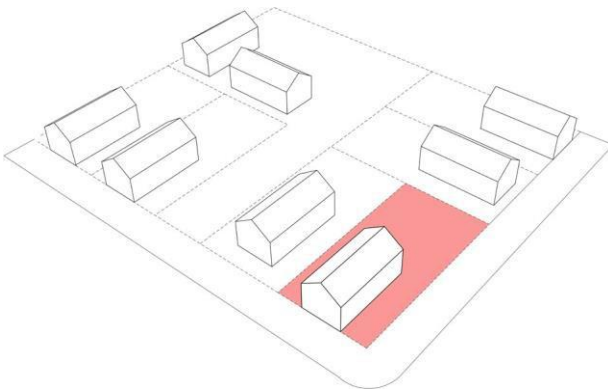
##### Description

A lot that has frontage along a single thoroughfare.

##### Dimensions

<u>Lot Width</u>	<u>50' min</u>
<u>Building Front Setback</u>	<u>0' min, 15' max</u>
<u>Building Side Setback</u>	<u>0' min, 25' max</u>
<u>Building Rear Setback</u>	<u>5' min</u>

##### b. Corner Lot



##### Description

A lot that has frontage on two intersecting thoroughfares.

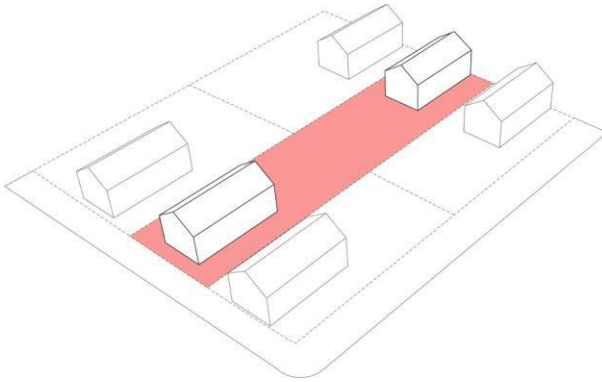
##### Dimensions

<u>Lot Width</u>	<u>50' min</u>
<u>Building Front Setback</u>	<u>0' min, 15' max</u>
<u>Building Side Setback</u>	<u>0' min, 25' max</u>
<u>Building Rear Setback</u>	<u>5' min</u>

##### Standards

1. On a corner lot, the applicant may choose which street frontage is the front lot line.

c. Through Lot



**Description**

A lot that has frontage on two, non-intersecting thoroughfares.

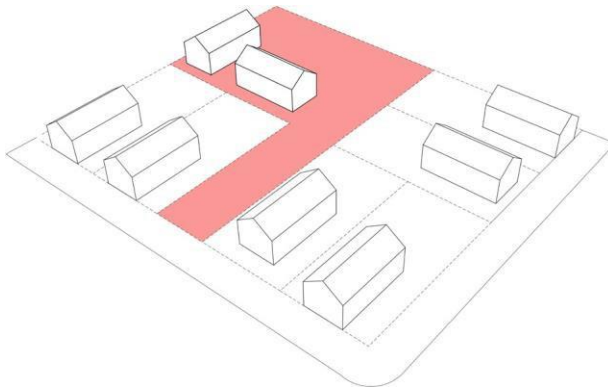
**Dimensions**

<u>Lot Width</u>	<u>50' min</u>
<u>Building Front Setback</u>	<u>0' min, 15' max</u>
<u>Building Side Setback</u>	<u>25' max</u>
<u>Building Rear Setback</u>	<u>N/A</u>

**Standards**

2. A through lot has two frontages, although the applicant may choose one frontage for development.

d. Flag Lot



**Description**

A lot connected to a thoroughfare by a thin strip of land, narrower than the minimum permitted lot width.

**Dimensions**

<u>Lot Width</u>	<u>None</u>
<u>Building Front Setback</u>	<u>None</u>
<u>Building Side Setback</u>	<u>0' min, 5' max</u>
<u>Building Rear Setback</u>	<u>5' min</u>

**Standards**

3. Only existing flag lots are permitted. The creation of new flag lots is prohibited.
4. A sidewalk or similar pedestrian connection must be constructed from the thoroughfare to all building(s) in the lot.

## **F. BUILDING STANDARDS**

### **1. Purpose**

- a. To provide buildings that reflect the scale and character of the community.**
- b. To allow for flexible building expansion to increase floor area.**
- c. To allow additional structures to be provided on a lot.**

### **2. Applicability**

- a. This article applies to all new buildings, building additions, and additional structures.**

### **3. General**

- a. The height limitations of Section VI.A.5 do not apply to the provisions of this Section XII.**
- b. Multiple buildings on a lot are permitted, provided all other requirements are met.**
- c. For purposes of measurement, building length and width standards apply only to the main building mass. Components have unique dimensions and standards.**
- d. At least one primary entrance must be located along the primary frontage of a primary building's main building mass.**

### **4. The Special Permit Granting Authority may, as part of the Site Plan Review process, allow reductions in building dimensions in order to promote better site design for site conditions particular to a given lot.**

### **5. Building Type**

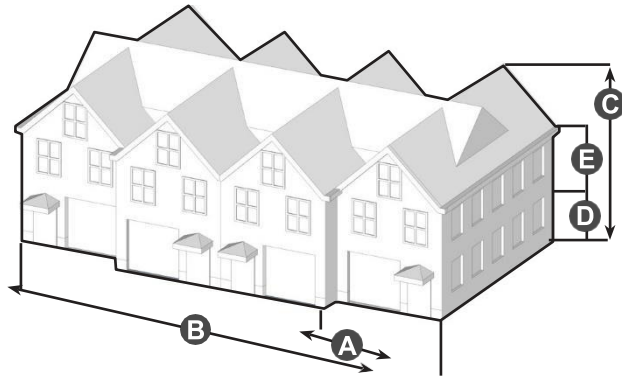
- a. The following list of building types are permitted with the TOVOD, either as-of-right (labelled "Y") or by grant of a Special Permit (labelled "SP"). Any building types not in the list below are prohibited under the TOVOD. See definitions for the following building types. Sections XII.F.5 further describe each of these building types.**

#### **Building Type**

<u>Townhouse</u>	<u>Y</u>
<u>Mixed-use building</u>	<u>Y</u>
<u>Multifamily</u>	<u>SP</u>

- b. The Planning Board will act as the Special Permit Granting Authority for all applications under the TOVOD.**
- c. Standards for each building style are provided in the following sections.**

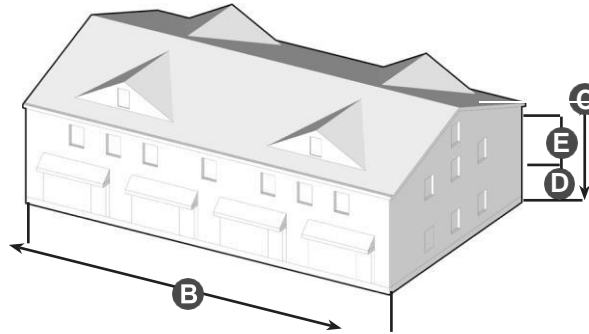
d. TOWNHOUSE



**Description**

A small- to medium-sized attached residential building type.

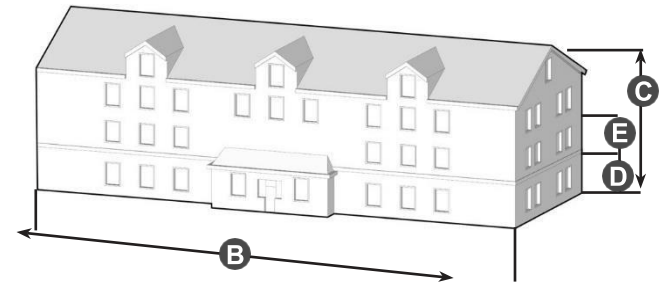
e. MIXED-USE BUILDING



**Description**

A variably-sized building with ground-floor commercial, retail or other non-residential space and one or more units of residential and/or commercial space on upper floor(s). (1)

f. MULTI-FAMILY



**Description**

A building providing multiple residential units.

**Building Form**

<u>Townhouse unit width</u>	<u>A</u>	<u>18' min, 36' max</u>	<u>N/A</u>	<u>N/A</u>
<u>Building length</u>	<u>B</u>	<u>100' max</u>	<u>100' max</u>	<u>140' max (3)</u>
<u>Building height</u>	<u>C</u>	<u>2.5 stories, 38'</u>	<u>2.5 stories, 38'</u>	<u>2.5 stories, 38'</u>
<u>First floor height</u>	<u>D</u>	<u>9' min, 12' max</u>	<u>11' min, 15' max</u>	<u>10' min, 15' max</u>
<u>Upper floor height</u>	<u>E</u>	<u>9' min, 12' max</u>	<u>9' min, 12' max</u>	<u>10' min, 12' max</u>
<u>Bonus height</u>	<u>F(2)</u>	<u>N/A</u>	<u>N/A</u>	<u>45' max total building height</u>

**Fenestration**

<u>First floor fenestration</u>	<u>5% min</u>	<u>30% min</u>	<u>20% min</u>
<u>Upper floor fenestration</u>	<u>15% min</u>	<u>15% min</u>	<u>15% min</u>

**Notes**

- At least 50% of ground floor must be occupied by commercial uses.
- An increase in building height may be granted by the permit granting authority at its discretion. At a minimum a building with a height greater than 30' must be located in the interior of a lot behind buildings along the frontage or other suitable screening from the public way.
- Mixed-use buildings must be articulated vertically a minimum of every 40' through the use of pilasters, columns, changes in material, or other means.

## TOWNHOUSE (continued)

## MIXED-USE BUILDING (continued)

## MULTI-FAMILY (continued)

**Roofs**

<u>Gable</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Hipped</u>	<u>N</u>	<u>Y</u>	<u>Y</u>
<u>Shed</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Flat</u>	<u>N</u>	<u>N</u>	<u>N</u>

**Massing Components**

<u>Extended shopfront</u>	<u>N</u>	<u>Y</u>	<u>N</u>
<u>Rear addition</u>	<u>SP</u>	<u>Y</u>	<u>Y</u>
<u>Side wing</u>	<u>N</u>	<u>Y</u>	<u>Y</u>
<u>Step back</u>	<u>N</u>	<u>SP</u>	<u>SP</u>

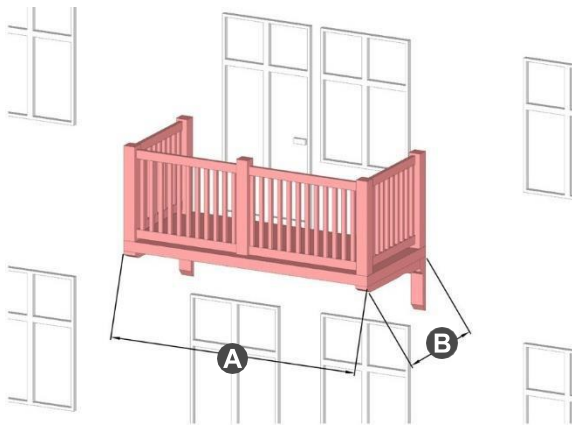
**Architectural Components**

<u>Porch</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Gallery</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Stoop</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Cross Gable</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Shed Dormer</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Dormer Window</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Bay Window</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Balcony</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Portico</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Canopy</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Deck</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Roof Deck</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>

6. Components

- a. Components are intended to avoid monotonous buildings and break up facades with architectural and massing components.
- b. The intent of this Section XII.F.6 is to provide a clear and flexible system for enabling the construction of new buildings and the expansion and modification of existing buildings in a manner consistent with the Town's character and vision.
- c. At least one component is required per building. For buildings greater than 50' in length, at least one component is required per 50', rounded to the nearest 100'.
- d. Standards for each component are provided in the following sections
- e. Applicable building codes apply. In cases where the relevant building code conflicts with this Section XII.F.6, the building code regulations prevail.

### a. BALCONY



### Description

An unroofed platform attached to a building face that provides outdoor space above the first floor.

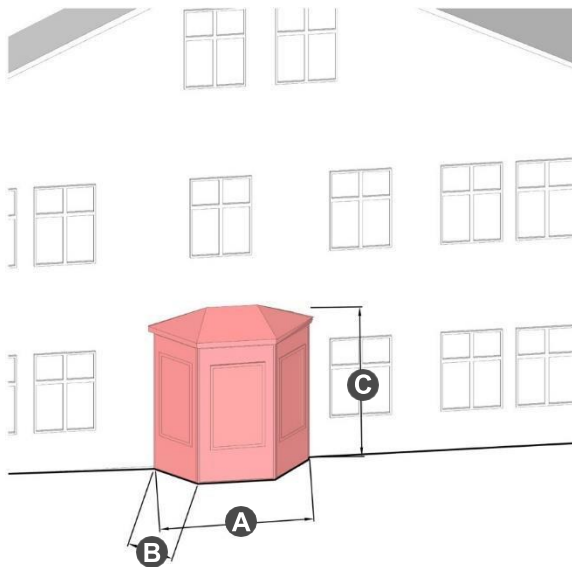
### Dimensions

<u>Width</u>	No more than width of the adjoining building face	<u>A</u>
<u>Projection</u>	8' max	<u>B</u>

### Standards

1. Balconies are only permitted on upper stories.
2. Balconies may not be enclosed and must be unroofed unless it is recessed into the envelope of the building or component to which it is attached.
3. Balconies may be projecting, integral, terraced, or a combination thereof. Projecting balconies may not encroach past the front lot line.
4. Balconies may wrap around corners to attach to galleries, porches, decks, or balconies on abutting building facades.
5. A projecting balcony must have a clear height above the ground of at least 10'.
6. When built on top of a porch, gallery, or portico, the balcony may extend to the boundaries of the component below.

### b. BAY WINDOW



### Description

An enclosed window assembly extending from the face of a building element to permit increased light, multi-dimensional views, and articulate a building façade.

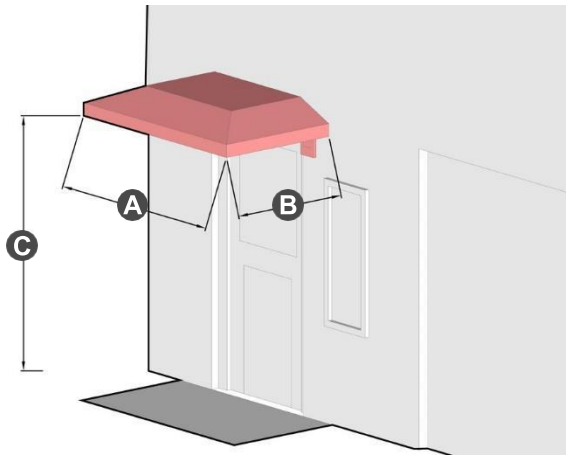
### Dimensions

<u>Width</u>	16' max	<u>A</u>
<u>Projection</u>	6" min, 4' max	<u>B</u>
<u>Top Plate Height</u>	Max equal to total number of full building stories	<u>C</u>
<u>Fenestration</u>	30% min	

### Standards

1. Must be visually supported by brackets, corbels, or a beam along their full depth or, when built at the first floor, may extend visually to the ground plane.
2. Bay windows may intersect with and occupy the same space as porches, balconies, galleries, and decks.
3. Bay windows must attach to a single building face and may not wrap around corners.
4. Bay windows may be two-sided, multi-sided, or curved.

### c. CANOPY



#### **Description**

A fixed, wall-mounted overhang extending from a building to provide shade and weather protection for pedestrians.

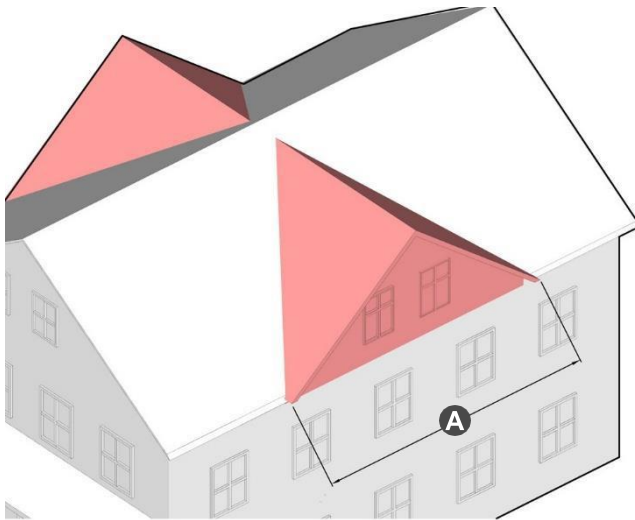
#### **Dimensions**

<u>Width</u>	<u>4' min</u>	<u>A</u>
<u>Projection</u>	<u>3' min</u>	<u>B</u>
<u>Height</u>	<u>8' min</u>	<u>C</u>

#### **Standards**

1. Canopies should be inset from the corners of the wall to which they are attached by at least 3".
2. Canopies may encroach past the front lot line to provide shade along public rights-of-way.

### d. CROSS GABLE



#### **Description**

A gable roof that projects perpendicular from the roof of the primary building to increase the habitable space within a roof.

#### **Dimensions**

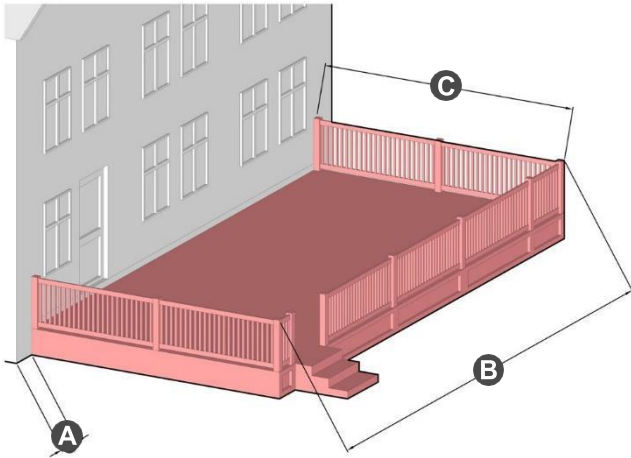
<u>Width</u>	<u>Equal to width of narrowest face of the primary building</u>	<u>A</u>
<u>Height</u>	<u>May not be higher than ridge beam of primary building</u>	<u>B</u>
<u>Fenestration</u>	<u>20% min</u>	

#### **Standards**

1. Two cross gables of equal size and roof pitch may be used together.



e. DECK



**Description**

A roofless, uncovered, raised platform accessible from a secondary entrance to a building that provides outdoor amenity space.

**Dimensions**

Setback from corner of building	2' min	A
Width	8' min	B
Projection	6' min	C
Height	None	

**Standards**

1. Decks are not permitted along frontages.
2. The space between piles or piers must be enclosed with latticework or similar material, or concealed visually by landscaping on all sides.

f. DORMER



**Description**

A window or group of windows with a gable, hip, or shed roof that projects vertically from the roof of a building element, designed to provide increased light and expand the habitable space within a roof.

**Dimensions**

Width	See Section IV.A.3	A
Height	No higher than height of roof	B

**Standards**

1. Windows should be vertically proportioned and no more than 3' high.
2. See Section IV.A.3 for additional standards.

g. GALLERY



**Description**

A raised, roofed platform that provides additional living space, with access solely from the interior of the building.

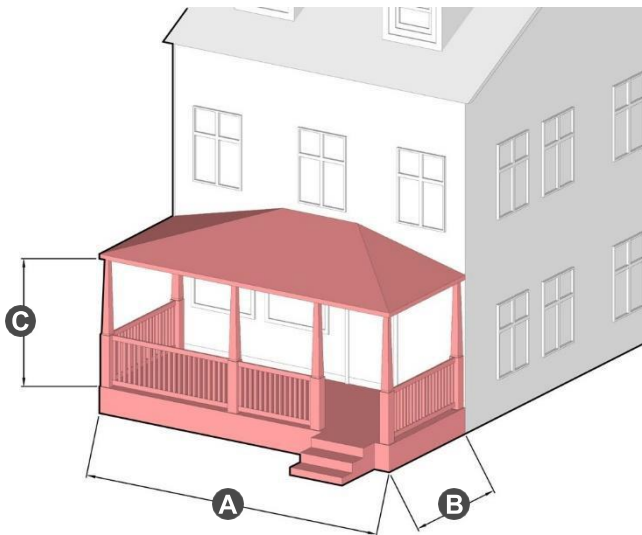
**Dimensions**

<u>Width</u>	<u>No more than width of the adjoining building face</u>	<u>A</u>
<u>Projection</u>	<u>6' min, 12' max</u>	<u>B</u>
<u>Clear Height</u>	<u>7' min</u>	<u>C</u>
<u>Fenestration</u>	<u>60% min when enclosed</u>	

**Standards**

1. Galleries may be partially or fully enclosed.
2. Galleries may be projecting or integral.
3. Galleries may wrap around corners to attach to porches, decks, balconies, or other galleries on abutting building faces.

h. PORCH



**Description**

A raised platform with that stairs that provides access to a building entrance.

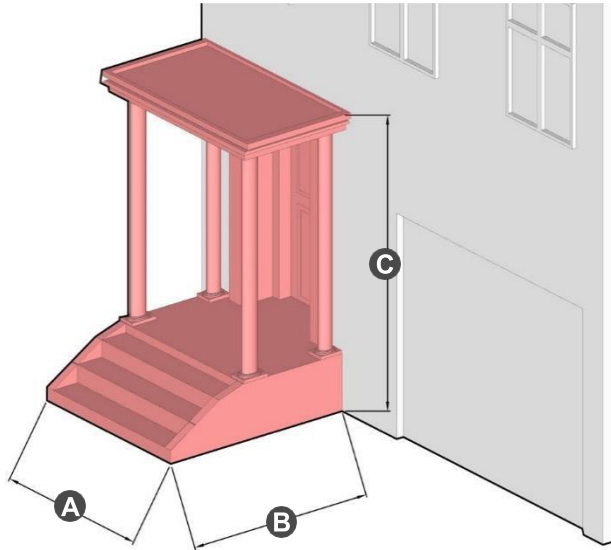
**Dimensions**

<u>Width</u>	<u>No more than width of the adjoining building face</u>	<u>A</u>
<u>Projection</u>	<u>6' min, 12' max</u>	<u>B</u>
<u>Height</u>	<u>7' min</u>	<u>C</u>
<u>Fenestration</u>	<u>60% min when enclosed</u>	

**Standards**

1. Porches may be partially or fully enclosed.
2. Porches may be projecting, engaged, or integral.
3. Stairs may extend off the front or side of the porch, except when a porch is located on an upper floor in which case the stairs cannot be located along the primary frontage.
4. The space between piles or piers must be enclosed with latticework or similar material, or concealed visually by landscaping on all sides.

### i. PORTICO



#### Description

A roofed structure above a stoop or platform supported on columns or pillars, which shields occupants from inclement weather and provides access to a building entrance.

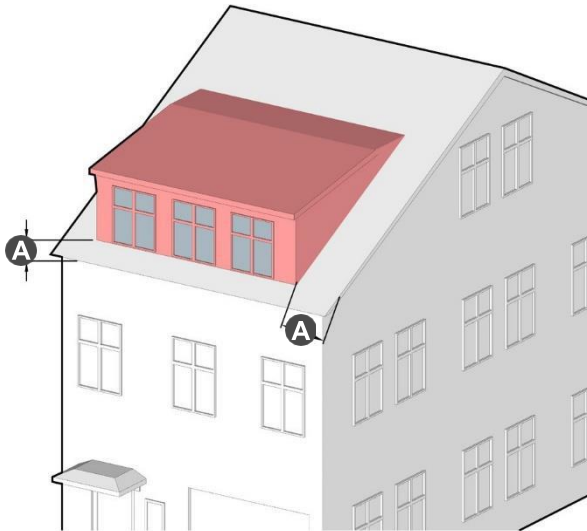
#### Dimensions

<u>Width</u>	<u>3.5' min</u>	<u>A</u>
<u>Projection</u>	<u>3.5' min, 8' max</u>	<u>B</u>
<u>Height</u>	<u>8' min</u>	<u>C</u>

#### Standards

1. A portico may not exceed the height of the primary ridge beam on the building element to which it attaches.
2. A portico must be elevated on a platform at least 1' from the ground.

### j. SHED DORMER



#### Description

A room, or portion of a room with a shed roof that projects vertically from the roof of a building element, designed to provide increased light and expand the habitable space under a roof.

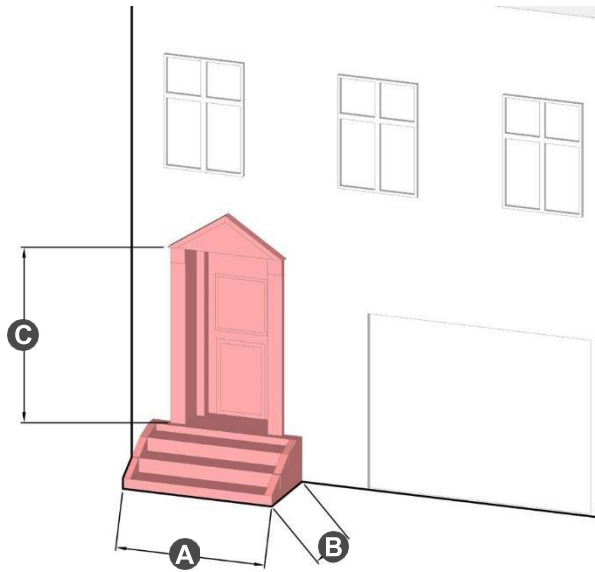
#### Dimensions

<u>Gable End Setback</u>	<u>See Section VI.A.3</u>	<u>A</u>
<u>Fenestration</u>	<u>20% min</u>	

#### Standards

1. Windows should be vertically proportioned and no more than 3' wide.
2. See Section VI.A.3 for additional standards.

### k. STOOP



#### Description

A component featuring a set of stairs with a landing to the entrance of a building.

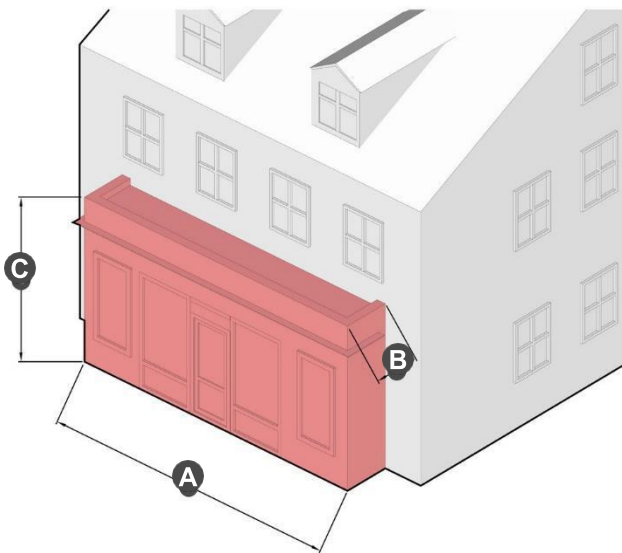
#### Dimensions

Width	3.5' min	A
Projection	3.5' min	B
Height	7' min	C

#### Standards

1. Stoops may be recessed into the building façade.
2. Stoop may be built perpendicular or parallel to the building face, but must lead directly to ground level or an abutting sidewalk from the building entrance.
3. Stoops may be configured as a split stair to access a below grade unit.
4. If a stoop is built encroaching onto a sidewalk, it must provide at least 3' clear and unobstructed between its outermost face and the face of the curb.

### l. EXTENDED SHOPFRONT



#### Description

An extension of the front of the building to provide new or expanded commercial space and a shopfront.

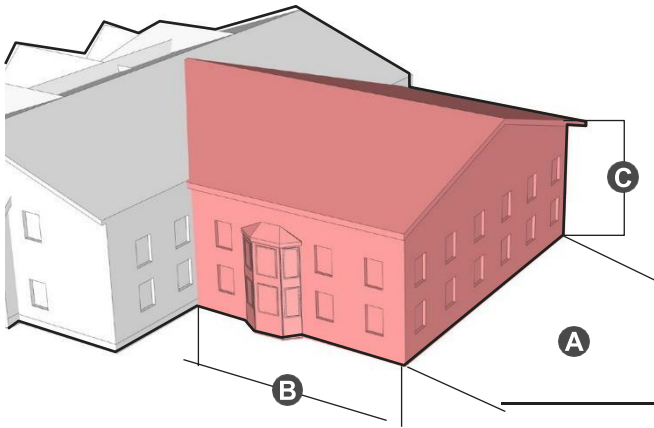
#### Dimensions

Width	No more than the width of the building face to which it attaches	A
Projection	May not encroach onto setbacks	B
Height	Max equal to total number of full building stories	C
Fenestration	70% min (shopfront) 30% min (upper stories)	

#### Standards

1. Extended shopfronts may wrap around corners of building face.

m. REAR ADDITION



Description

An extension from the rear wall of a primary building or accessory building.

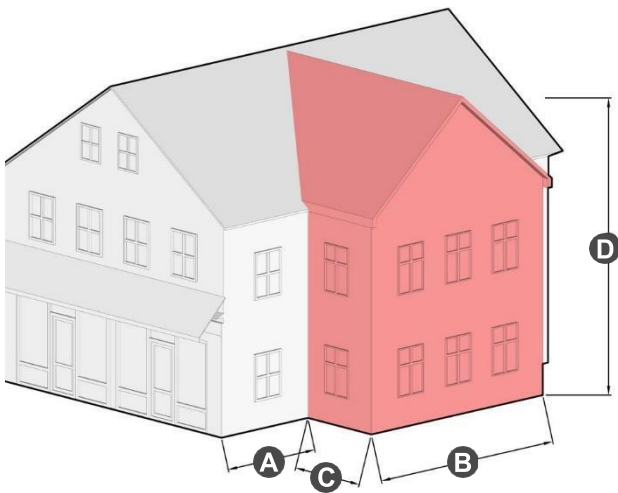
Dimensions

<u>Width</u>	<u>Max width of rear wall, less 2'</u>	<u>A</u>
<u>Projection</u>	<u>No max, provided setbacks are met</u>	<u>B</u>
<u>Height</u>	<u>Equal to or less than height of main building</u>	<u>C</u>

Standards

1. Rear additions may be centered or offset at the rear wall of the main building mass, provided they share at least 6' with the common wall.
2. Additional components may be incorporated onto rear additions. Where a rear addition is greater than 50', at least one additional component is required.

n. SIDE WING



Description

A multi-story extension from the side walls of a primary building or accessory building.

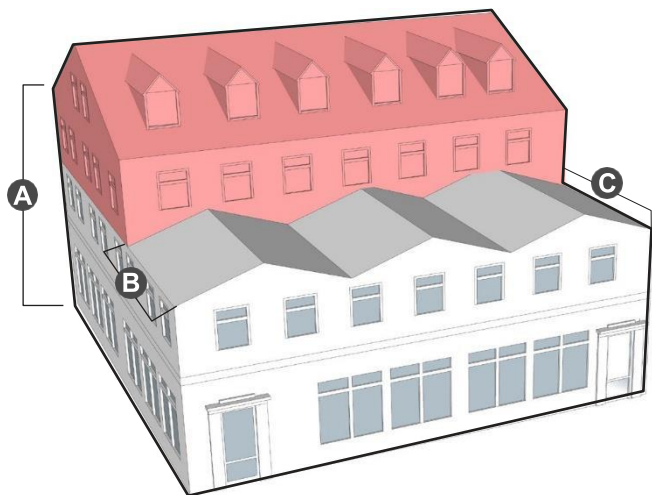
Dimensions

<u>Setback from façade</u>	<u>8' min</u>	<u>A</u>
<u>Width</u>	<u>Max 2/3 width of primary building</u>	<u>B</u>
<u>Projection</u>	<u>Max 12'</u>	<u>C</u>
<u>Height</u>	<u>Equal to or less than height of primary building</u>	<u>D</u>
<u>Fenestration</u>	<u>20% min</u>	

Standards

1. Primary building may only have one side wing per side.
2. Side wings may be centered or offset at the side wall of the primary building, provided they share at least 6' with the common wall.
3. Additional components may attach to the side wing.

o. STEPBACK



Description

A recession in the profile of a building intended to reduce building mass and/or reduce shadows, while allowing for additional height.

Dimensions

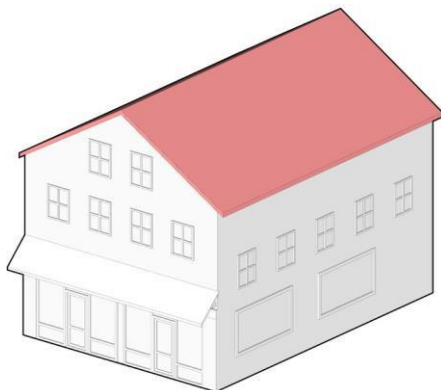
<u>Height</u>	<u>40' max height from ground</u>	<u>A</u>
<u>Width</u>	<u>Equal to or less than width of primary building</u>	<u>B</u>
<u>Setback from façade</u>	<u>25' min</u>	<u>C</u>
<u>Fenestration</u>	<u>20% min</u>	

Standards

1. Primary buildings may only have one stepback.

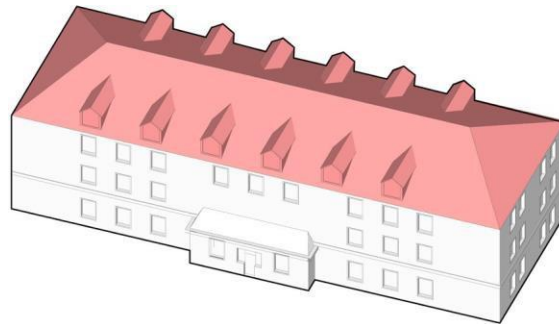
7. Roofs

- The purpose of this section is to provide for buildings that have identifiable roof shapes based on local character.
- Pitched roofs must converge, symmetrically, to a single ridge beam at their highest point.
- Shed roofs are considered to be symmetrical provided the vertical separation between the base of the eaves and the top of the ridge beam is the same across the entire length of the roof.
- The following are diagrams and descriptions of allowable roof types in the district. Flat roofs are prohibited except for fabrication buildings.
- Gable Roof
  - (1) A pitched roof with two sides of the same slope and length, meeting symmetrically at a single ridge-beam.



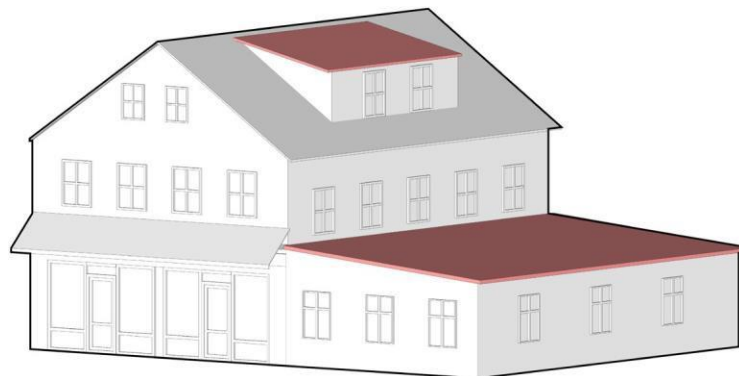
f. Hipped Roof

(1) A pitched roof with all sides inclined at the same slope, such that they meet symmetrically at a shared ridge beam or a point.



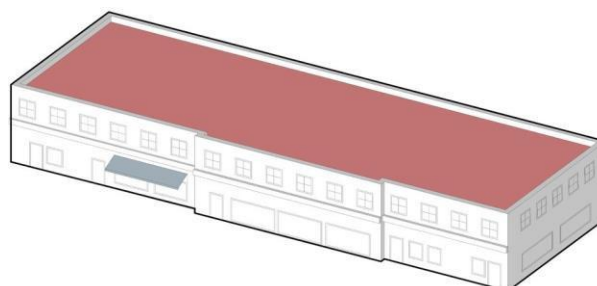
g. Shed Roof

(1) A simple roof pitched in only one direction.



h. Flat Roof

(1) A simple roof pitched very slightly in one or more directions, approximating a flat surface.



## **G. PARKING REQUIREMENTS**

The parking requirements of Section VII shall apply to this District.

## **H. CIVIC / OPEN SPACE**

### 1. Purpose

- a. To ensure a variety of functional, well-designed civic and open spaces that complement the character of abutting properties and add vibrancy to the community.
- b. To provide a range of civic and open space types within proximity homes and businesses to

### 2. Applicability

- a. For projects of greater than 10 residential units or greater than 10,000 square feet of non-residential space, a minimum of 5% of gross land area of the parcel must be designed as publicly available open space, subject to reasonable restrictions set forth by the applicant.

### 3. Required open space is not required to be contiguous, however, open space must be designed as usable for sitting, recreation, or other active uses and shall not include buffer strips.

### 4. At the discretion of the Special Permit Granting Authority, the applicant may satisfy all or part of the open space requirement through the provision of improvements to existing parks, improving access to existing parks, or the provision of walking trails within or connecting to the district.